



January 12, 2023

TRANSMITTED VIA FOIA online

Regional Freedom of Information Officer
U.S. EPA, Region 5
77 West Jackson Boulevard (MI-10J)
Chicago, IL 60604-3590
(312) 886-6803

Re: FOIA request concerning records received under U.S. EPA Administrative Order on Consent In the Matter of: City of Cahokia Heights, August 16, 2021

Dear FOIA Officer:

This letter requests information pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and the pertinent U.S. Environmental Protection Agency (“EPA”) regulations, 40 C.F.R. § 2.100, *et seq.* on behalf of Centreville Citizens for Change.

I. RECORDS REQUESTED

This FOIA request encompasses the period from March 9, 2022 to the time a response is provided, unless otherwise noted in the request. This FOIA request seeks the following records related to U.S. EPA’s August 16, 2021 Administrative Order on Consent under Section 309(a) of the Clean Water Act, 33 U.S.C. § 1319(a), In the Matter of: City of Cahokia Heights:

- 1) Cahokia Heights’ condition status report of Cahokia Heights’ inspection of all City lift stations and temporary lift station bypass stations, including date of inspection; name of inspector; operational condition of wet wells, pumps, valve vaults, and controls; and signs of damage, as part of the interim O&M actions required under the Administrative Order on Consent;
- 2) Cahokia Heights’ interim plan to manage and track the following:
 - a. work orders based on complaints received;
 - b. scheduled work orders;
 - c. scheduled preventative maintenance;
 - d. safety incidents;
 - e. overflows and backups from lift stations, pipes and hoses used to temporarily reroute flow around lift stations or compromised sewers, manholes, cleanouts, and any other location or equipment in the City's Sanitary Sewer System

required as part of the interim O&M actions required under the Administrative Order on Consent;

- 3) Cahokia Heights' Wet-Weather SSO Investigation Plan, and EPA's comments and approval or disapproval decision on Cahokia Heights' Wet-Weather SSO Investigation Plan and Cahokia Heights' revised Wet-Weather SSO Investigation Plan, if any;
- 4) All Cahokia Heights status reports submitted to EPA under the Administrative Order on Consent; and
- 5) Any correspondence that addresses sanitary sewer overflows ("SSOs") in the City of Cahokia Heights, including planned repairs to address SSOs.

We define "records" to include all data, analyses, studies, articles, correspondence (including emails, telephone messages, text messages, and internet "chat" or social media messages), memoranda, reports, notes, notices, meeting notes, calendars, telephone logs, telefaxes, photographs, videos, maps, diagrams and other records, whether paper or electronic.

This request applies to any records within, or exchanged between, any U.S. EPA office, including, but not limited to, U.S. EPA Headquarters office and U.S. EPA Region 5 offices.

In the event that any requested document is claimed exempt from disclosure, please identify each allegedly exempt record in writing, provide a brief description of that record, and explain the agency's justification for withholding it. If a document contains both exempt and non-exempt information, please provide those portions of the document that are not exempted from disclosure. Finally, if a document does not exist, please indicate that in your written response.

We remind you that FOIA requires a response within twenty working days, pursuant to 5 U.S.C. § 552(a)(6)(A)(i) and 40 C.F.R. § 2.104(a). We ask that you disclose the requested information as it becomes available to you without waiting until all of the records have been assembled for the time period requested. To the extent responsive records are available in an electronic format, we would prefer to receive electronic versions of the records. If any of the records described above are already publicly available, please let us know where to find them.

II. REQUEST FOR A FEE WAIVER

Pursuant to 5 U.S.C. § 552(a)(4)(A)(iii), Centreville Citizens for Change respectfully requests a fee waiver. FOIA dictates that requested records be provided without charge "if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester." 5 U.S.C. § 552(a)(4)(A)(iii). As explained below, Centreville Citizens for Change's requested disclosure meets both requirements.

- A. Disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government.

The subject of this request concerns the operations and activities of the federal government, specifically U.S. EPA's collection of data and information regarding Cahokia Heights' plans to repair the broken sewage system in the Centreville region of Cahokia Heights. The requested records will thus "contribute significantly to public understanding of the operations or activities of the government." 5 U.S.C. § 552(a)(4)(A)(iii); 40 C.F.R. § 2.107(l)(1). While the U.S. EPA has posted some records related to the Cahokia Heights Administrative Order on Consent on a public website (<https://www.epa.gov/il/communities-east-st-louis-area-and-sanitary-sewer-overflows>), many of the records that should have been produced by Cahokia Heights under the Administrative Order on Consent before today's date, including all of the records requested in this FOIA, have not yet been publicly posted to the best of our knowledge. As a result, the public does not currently possess comprehensive information regarding Cahokia Heights' plans regarding investigation and repairs of the area's sewer system. The requested information will increase the public's understanding of the ways that the Cahokia Heights sewer infrastructure contributes to sewage backups and overflows in the region, and the municipality's plans to address the problems under the Administrative Order on Consent. Cahokia Heights has been plagued by a public health crisis caused by chronic sewer overflows and backups into homes, as well as flooding, for many years. The records produced under the Administrative Order on Consent should be public documents that allow residents of Cahokia Heights to understand their sewer system's problems and the required solutions.

Centreville Citizens for Change is a community organization that advocates for solutions to the chronic flooding and sewage pollution in the part of Cahokia Heights, Illinois formerly known as Centreville. Centreville Citizens for Change pursues long-lasting, equitable reforms for the community that will allow residents of Centreville to live free from raw sewage exposure and routine floods. Centreville Citizens for Change has approximately 40 members, who reside in Centreville and surrounding areas. Most members of Centreville Citizens for Change have directly experienced sewage backups in their homes and/or flooding and possess substantial knowledge about the local stormwater infrastructure and its maintenance, as well as flooding patterns. By working with Earthjustice, a non-profit organization with substantial legal and environmental expertise, and due to its own substantial knowledge about local water infrastructure, Centreville Citizens for Change is prepared to evaluate the records we receive pursuant to this request. In addition, Centreville Citizens for Change has the ability to disseminate information to the public through its website: <https://floodedandforgotten.com/>. Finally, because this FOIA request expressly excludes information that is publicly available, the requested information is not already in the public domain. Rather, the disclosure will contribute significantly to the understanding of a public audience of persons interested in the subject.

- B. Disclosure of the requested information is not primarily in the commercial interest of the requester.

Centreville Citizens for Change is a community organization with no commercial interest in obtaining the requested information. 5 U.S.C. § 552(a)(4)(A)(iii); 40 C.F.R. § 2.107(l)(1); *see*

also *Judicial Watch, Inc. v. Rossotti*, 326 F.3d 1309, 1312 (D.C. Cir. 2003); *McClellan Ecological Seepage Situation v. Carlucci*, 835 F.2d 1282, 1284 (9th Cir.1987) (quoting 132 CONG. REC. 27,190 (1986) (Sen. Leahy)). The members of Centreville Citizens for Change are residents of one of the “poorest towns in the country,”¹ and participate in the community organization on a volunteer basis. Earthjustice is a non-profit organization that does not charge Centreville Citizens for Change for its legal services. The public will be the primary beneficiary of this requested information because neither Centreville Citizens for Change nor Earthjustice has any commercial interest in the requested disclosure.

For all of the foregoing reasons, a fee waiver is warranted under 5 U.S.C. § 552(a)(4)(A)(iii). If U.S. EPA does not believe that the above information is sufficient to justify a fee waiver, please contact us for further documentation before deciding upon the waiver request.

Thank you for your assistance in this matter. We look forward to receipt of the requested documents. Please do not hesitate to contact me to clarify the request, or to otherwise expedite and simplify your efforts to comply. I can be reached at (202)797-5233 and asewell@earthjustice.org.

Sincerely,

/s/ Anna Sewell
Earthjustice

¹ Carolyn P. Smith, *Centreville is Poorest Town in America, Report Says*, BELLEVILLE NEWS-DEMOCRAT, June 20, 2018, <https://www.bnd.com/news/local/article213530454.html>.